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4 RONALD WAYNE WILLEY,
5 Petitioner,
6 v.
7 JEROME PRICE, Warden,
8 Respondent.

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10 Case No. 15-cv-04268-HSG (PR)
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13 **ORDER OF DISMISSAL**
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15 Petitioner, a state prisoner, filed this pro se petition for writ of habeas corpus pursuant to
16 28 U.S.C. § 2254. Petitioner filed a previous petition for writ of habeas corpus with this Court,
17 challenging the same conviction and sentence. *See* Case No. C 97-1617 CW (PR). The Court
18 denied the first petition on the merits on February 19, 1998.

19 The Court finds the present petition is a second or successive petition attacking the same
20 conviction and sentence as petitioner's prior federal habeas petition. A successive petition may
21 not be filed in this court unless petitioner first obtains from the United States Court of Appeals for
22 the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. § 2244(b)
23 (3)(A). Petitioner has not sought or obtained such an order from the United States Court of
24 Appeals for the Ninth Circuit. Even if petitioner has new claims, he must still obtain the necessary
25 authorization under Section 2244(b) from the United States Court of Appeals before he may
proceed. The petition is accordingly DISMISSED without prejudice to refiling if petitioner
obtains the necessary order.

26 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district court to rule
27 on whether a petitioner is entitled to a certificate of appealability in the same order in which the
28 petition is decided. Petitioner has failed to make a substantial showing that a reasonable jurist

1 would find this Court's denial of his claim on procedural grounds debatable or wrong. *See Slack*
2 v. *McDaniel*, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted
3 in this case.

4 Petitioner's in forma pauperis application (docket no. 7) is GRANTED.

5 The Clerk shall enter judgment and close the file.

6 **IT IS SO ORDERED.**

7 Dated: 12/16/2015

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10 HAYWOOD S. GILLIAM, JR.
United States District Judge

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12 United States District Court
13 Northern District of California
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